



Protecting What You Value Most Through Estate Planning and Asset Protection

Providing Solutions That Secure and Enhance Your Wealth and Your Legacy

Everyone understands the benefits of having insurance to protect your assets from unanticipated events. Hazard and casualty insurance is necessary to provide protection from the risks of fire, floods and wind damage. Liability insurance is necessary to provide protection from the risks of auto accidents and personal injury. But what can you do to protect your assets from claims in excess of your insurance or from risks of lawsuits or from unexpected business liabilities or from an overabundance of tax consequences? Fortunately having an asset protection plan in place can help insulate you from these potentially significant risks.

We believe in providing you with effective solutions so that you can have confidence that your assets and your legacy are protected. An effective asset protection plan needs to be in place before a lawsuit or claim is made against you, and well in advance of your retirement or death, so it is important to take the step toward greater protection today.

Wild Felice & Pardo is a full-service, Fort Lauderdale, Florida based law firm with a specialty in asset protection. We utilize a combination of estate planning, real estate law, corporate formation, family law, and asset structuring to assure that our clients are protected from potential litigation, creditors, and any other threats that may be looming. A properly designed asset protection plan can accomplish many of your most important objectives:

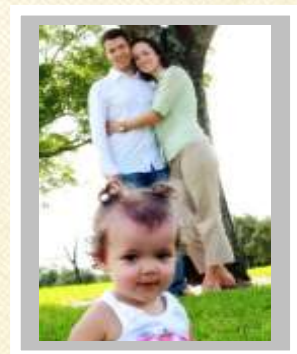
- Protection of family savings and investments from lawsuits and claims.
- Protection against inadequate or unavailable insurance coverage.
- Insulation of rental properties reducing your exposure to potential lawsuits.
- Protection of business assets and accounts receivable from potential claims.
- Elimination of probate.
- Reduction of estate taxes.



BUSINESS SUCCESSION PLANNING EDITION

The last thing you want to leave your loved ones after you die is a hassle. As a business owner, you can't imagine a day when you aren't able to run your business. The day will come when your business must pass onto the next generation. In this issue, we will discuss:

- What is Business Succession Planning?
- The benefits of a Business Succession Plan.
- Methods of transferring your business through purchase agreements.
- What an attorney will need to identify your needs and establish your Business Succession Plan.



Every business owner should have Business Succession Plan but the need for comprehensive planning is even greater when you have a family's future to think of.



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How a Business Succession Plan Can Benefit You and Your Family

Most business owners are hard at work growing their companies and neglect to plan for the day they must pass the business on to their families. A premature illness or death may leave the business and family without leadership. A business owner may have more than one child or can have children from different marriages. Families left without clear plans usually fight over control of the business. A business succession plan can make a difficult situation easier for your loved ones.

Many businesses are partnerships; their day to day operations are handled by more than one person. The death or incapacity of a key person in a business can have devastating consequences: Who will be in charge? Are the other partners in agreement with the deceased partner's replacement? If there is no replacement, how will the business compensate the deceased partner's family? Succession planning should be in place well in advance to avoid future difficult situations. These situations must be handled with knowledge and experience to avoid costly litigation and the destruction of lifelong friendships.

Business succession planning seeks to manage these issues, setting up a smooth transition between the business owners and their families. Succession planning can be specially complicated because of the family relationships and emotions involved. Most people are not that comfortable discussing things such as aging, death, and their financial affairs. However, creating and implementing a business succession plan will provide several benefits to owners and partners. First, it ensures an agreeable price for each partner's share of the business and eliminates the need for valuation upon death because the business' price has been established beforehand. Also, the policy benefits will be immediately available to pay for the deceased's share of the business, with no liquidity or time constraints. This effectively prevents the possibility cash flow problems or the need to sell business or other assets to cover the cost of the deceased's interest. Finally, a succession plan can greatly aid in allowing for timely settlement of the deceased's estate.



Did you know?



According to the Family Research Institute, a highly specialized resource for family-owned and closely held businesses, Only about 30% of family businesses successfully transition to the second generation; about 12% successfully transition to the third generation; and only about 3% make it to the fourth generation."

Business Succession Planning can increase the chances of a smooth and secure transition of your family business.

Business Succession: Where to Begin?

Begin with your concerns; ask yourself questions?

The business succession plan involves many details that one would not necessarily think about as a business owner. Although topics such as death and incapacity are not pleasant to think about, they are necessary to establish an effective succession plan. Some things to think about before you visit your attorney:

- What is the objective of your business succession plan?
- Will this continue to be a family business?
- Do you intend to sell your stake in the business to your partners upon your death?
- Will your children continue your work at the business?
- Identify family members' goals and personal desire to continue with the business.
- Identify active and non-active roles for all family members.
- What transfer method will you use, purchase, gift / bequest, or a combination?
- What is the business worth?

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BUSINESS SUCCESSION AND CROSS-PURCHASE AGREEMENTS

The business succession plan is an elaborate process. First, the business owner and his partners should decide what it is that they want to accomplish with the plan. The next step is to establish the business' value. This can be obtained through a CPA or a private agreement. Once the value is determined, the business or its owners purchase life insurance on all the partners to fund the succession plan. The insurance benefit will be used to buy out the deceased partner's share of the business.

There are basically two ways to arrange a business succession. The Cross-Purchase Agreement can be used to provide your business with a succession plan. Under a cross-purchase plan, each partner agrees in advance to buy the other partner's share while the withdrawing partner agrees to sell his or her share to the remaining partners. The business is not involved in the transaction. Therefore, when partners execute a cross-purchase agreement to buy each others' share, they must have the personal funds to do so when a partner withdraws. For this reason, life insurance is commonly used to provide such funding. Each partner buys a life insurance policy on the life of every other partner, pays the premiums out of their own pocket and is the policy's beneficiary. Since each partner could have multiple policies to maintain, cross purchase agreements work best when the number of total partners is relatively small.

The other way to arrange a business succession plan is through an Entity Purchase Agreement. It is structured so that each partner agrees to in advance that if he or she withdraws from the company, they will sell their share in the business to the company. The company then buys a life insurance policy on the life of every partner, pays the premiums out of the company accounts. When a partner dies or is incapacitated the business collects the insurance proceeds and buys the withdrawing partner's share. Entity Purchase Agreements are easier to administer since they only require one policy type per partner.

While both ultimately serve the same purpose, they are used in different situations. The contracts must be drafted clearly and without any ambiguous terms to avoid future complications or delays. More importantly, the only way to make sure that things turn out the way you intend is to have an attorney alert you to all the consequences of your decisions.. Remember this is more than a business plan; it's your family's future.



FRIENDSHIPS AND MISFORTUNE

The old fable about the travelers and the bear narrates how at the sight of a bear one traveler hid in a tree and left his friend behind to deal with the bear alone. Having no other option the traveler played dead and after a few tense moments the bear whispered in his ear and left. After the danger passed, the traveler came down from the tree and asked his companion what the bear said. The companion responded, he said "Never travel with a friend that deserts you at the approach of danger."

Most people believe that friends and family will always support and act in their best interest. The only way to be sure is to think ahead and plan for those moments when misfortune crosses our path.



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